

DORON ZAHAL and DEBORAH) CIVIL DIVISION
ZAHAL, h/w,)
59 Durand Road) NO.
Abington Township, PA 19006)
)
Plaintiffs,)
)
vs.)
)
R.C. MOORE, INCORPORATED)
8 Ginn Road)
Scarborough, ME 04074)
)
and)
)
SAMUEL LEE)
9 Sun Hill Road)
Raymond, NH 03077)
)
Defendants.)

AND NOW comes Defendants, R.C. MOORE, INCORPORATED and SAMUEL LEE, by and through their counsel, Wayman, Irvin & McAuley, LLC, who seek removal of this civil action pursuant to 28 U.S.C. § 1441, *et seq.* from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania. In support of this Notice of Removal, Defendants herein aver as follows:

1. Plaintiffs Doron Zahal and Deborah Zahal (hereinafter, "Plaintiffs" or "the Zahals") commenced this action against R.C. Moore, Incorporated and Samuel Lee by

filing a Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania on March 2, 2021. (See **Exhibit "A,"** attached hereto and incorporated herein by reference).

2. The within referenced Complaint qualifies as the "initial pleading" under 28 U.S.C. § 1446(b). Defendants have therefore timely filed this Notice of Removal within the thirty (30) days set forth in § 1446(b).

3. In their Complaint, Plaintiffs allege Negligence (Count I) against both Defendants based on an auto accident involving Plaintiff Doron Zahal and Defendant Samuel Lee. In Count II of the Complaint, Plaintiffs allege Loss of Consortium as to Deborah Zahal.

4. Per paragraph 1 of their Complaint, Plaintiffs admit a residence at 59 Durand Road, Abington Township, PA 19006.

5. In paragraph 2 of their Complaint, Plaintiffs allege that R.C. Moore, Incorporated a/k/a R.C. Moore, Inc., "is a corporation, organized and/or existing under Pennsylvania law, with the entity number 3100840 on the Pennsylvania Corporation Bureau website, which has its principal place of business [sic] 8 Ginn Road, Scarborough, ME 04074."

6. Pennsylvania's Corporation Bureau website confirms that Defendant R.C. Moore, Inc., which indeed has an entity number of 3100840, is an active *foreign* corporation created in the State of Florida on October 17, 2012. (See **Exhibit "B,"** attached hereto and incorporated herein by reference).

7. Per paragraph 3 of their Complaint, Plaintiffs allege a residence of 9 Sun Hill Road, Raymond, NH 03077 for Defendant Samuel Lee.

8. Accordingly, there is complete diversity of citizenship pursuant to 28 U.S.C. § 1332(a)(1).

9. Although the "WHEREFORE" clauses in Counts I and II of Plaintiffs' Complaint only seek damages "in excess of FIFTY THOUSAND (\$50,000.00) DOLLARS plus costs," it is unequivocally clear from the face sheet of the Complaint that Plaintiffs value their case in excess of \$75,000.00, where this case is designated in Philadelphia County as "A MAJOR JURY CASE." The \$75,000.00 excess value of this case, at least according to the allegations of the Complaint, are supported by the following:

- a. Paragraph 5: Plaintiff alleges "extensive property damage and serious injuries to Plaintiff DORON ZAHAL."
- b. Paragraph 12: The aggravation of pre-existing injuries is alleged.
- c. Paragraph 13: Plaintiff claims injuries "of a permanent nature and character."
- d. Paragraph 14: According the Complaint, Plaintiff DORON ZAHAL has allegedly "been unable in the past, and is likely to continue to be unable in the future, to attend his usual duties, activities, vocations and/or avocations, all to his great financial loss and detriment."
- e. Paragraph 15: Plaintiff DORON ZAHAL has allegedly "been required to expend, and/or has become liable for the payment of, substantial sums of money for medicine and medical attention for the care, treatment, and attempted cure of the injuries he sustained, all to his great financial loss and detriment."
- f. Paragraph 16: Per this paragraph, Plaintiff "has been caused to undergo in the past, and is likely to undergo in the future, severe pain, suffering, inconvenience, and embarrassment, all to his great financial loss and detriment."

g. Count II: Here, Loss of Consortium is alleged on behalf of Plaintiff Deborah Zahal.

10. Therefore, based on the above, the amount in controversy exceeds \$75,000.00, as required by 28 U.S.C. § 1332(a).

11. As all of the requirements of 28 U.S.C. § 1441, 28 U.S.C. § 1332(a)(1), and 28 U.S.C. § 1332(a) have been satisfied, Defendants respectfully submit that they are entitled to remove this action from the Philadelphia County Court of Common Pleas to the United States District Court for the Eastern District of Pennsylvania.

12. Defendants will file true and correct copies of this Notice of Removal with the Prothonotary of the Court of Common Pleas of Philadelphia County, Pennsylvania and serve same upon counsel of record for Plaintiffs after this Honorable Court has initially accepted the filing of this Notice.

WHEREFORE, Defendants R.C. MOORE, INCORPORATED and SAMUEL LEE respectfully request that this Honorable Court assume jurisdiction of the within action pursuant to 28 U.S.C. § 1332(a)(1), 28 U.S.C. § 1332(a), and 28 U.S.C. § 1441 based upon complete diversity of citizenship between Plaintiffs and Defendants, the satisfaction of the \$75,000.00 threshold, as well as the timely filing of this Removal pursuant to 28 U.S.C. § 1446(b).

JURY TRIAL DEMANDED

Respectfully submitted,

WAYMAN, IRVIN & MCAULEY, LLC

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Counsel for Defendants,

R.C. Moore, Incorporated and

Samuel Lee

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Removal has been served on the following counsel of record by U.S. First Class Mail on this 19th day of March 2021:

Jeffrey R. Lessin, Esquire
Mark T. Richter, Esquire
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